



Paper No. 9

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Song, Sang-Uuk
Application No. 09/632,995
Filed: August 4, 2000
Attorney Docket No. 5000-1-122

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned for failure to properly reply to the final Office action mailed June 5, 2003. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, this application became abandoned on September 6, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply,¹
- (2) the petition fee,
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
- (4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.²

The instant petition lacks item (1). Although petitioner timely submitted the Request for

¹ In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

² See MPEP 711.03(c)(III)(C) and (D).

Reconsideration on September 5, 2003, it failed to place the application in condition for allowance. A proper reply to a final rejection under 37 CFR 1.113 may be: (1) an amendment which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee); or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. Petitioner must submit one of the above documents in order to revive the above-identified application. An advisory action from the examiner is enclosed.

The Terminal Disclaimer filed on December 29, 2003 is not required since the application was not filed prior to June 8, 1995. Therefore, the Terminal Disclaimer has not been accepted and will not be entered, but will be placed in the application file.

Petitioner submitted a total of \$1750.00 with the instant petition for payment of the \$1330.00 petition fee and the \$110.00 terminal disclaimer fee, leaving a \$310.00 overpayment. Since the Terminal Disclaimer is unnecessary, the \$110.00 fee, along with the \$310.00 overpayment, will be refunded to petitioner.

Further correspondence with respect to this matter should be addressed as follows:

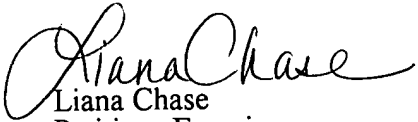
By mail: Mail Stop PETITION
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Post Office Box 1450
Alexandria, VA 22313-1450

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The centralized facsimile number is (703) 872-9306.

Telephone inquiries should be directed to the undersigned at (703) 306-0482.



Liana Chase
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Advisory Action